



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Western Management Services, Inc.

File: B-257876

Date: July 20, 1994

DECISION

Western Management Services, Inc. (WMS) protests the Department of the Army's decision not to award a sole source contract to WMS under the section 8(a) program and to conduct a competitive procurement instead.

Section 8(a) of the Small Business Act, 15 U.S.C. § 637 (a) (1988 and Supp. V 1993), authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for the performance of such contracts by letting subcontracts to socially and economically disadvantaged small business concerns. Because of the broad discretion afforded the SBA and the contracting agencies under the applicable statute and regulations in determining whether an award should be made under the section 8(a) program and if so upon what terms, our review of actions under the program generally is limited to determining whether government officials have violated regulations or engaged in fraud or bad faith. See 4 C.F.R. § 21.3(m)(4); Lecher Constr. Co. - Request for Recon., B-237964.2, Jan. 29, 1990, 90-1 CPD ¶ 127. To show bad faith, the protester must present undeniable proof that the procuring agency had a malicious and specific intent to injure the protester. Ernie Green Indus., Inc., B-224347, Aug. 11, 1986, 86-2 CPD ¶ 178. WMS alleges that by "self-marketing [itself], WMS has . . . thus positioned the firm for the sole source set aside contract," the protester has not shown the reasonable likelihood of either a violation of regulations or fraud or bad faith by government officials.

The protest is dismissed.

Ronald Berger

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